

**ASSEMBLY BILL**

**No. 1303**

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**Introduced by Assembly Member Hall**

February 27, 2009

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An act to amend Section 1422 of the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1303, as introduced, Hall. Long-term health care facilities.

Existing law establishes various programs for the prevention of disease and the promotion of health to be administered by the State Department of Public Health, including, but not limited to, the licensing and regulation of health facilities, including, but not limited to, long-term health care facilities, as defined.

This bill would make a technical, nonsubstantive change.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1422 of the Health and Safety Code is
- 2 amended to read:
- 3 1422. (a) The Legislature finds and declares that it is the public
- 4 policy of this state to ensure that long-term health care facilities
- 5 provide the highest level of care possible. The Legislature further
- 6 finds that inspections are the most effective means of furthering
- 7 this policy. It is not the intent of the Legislature by the amendment
- 8 of subdivision (b) enacted by Chapter 1595 of the Statutes of 1982
- 9 to reduce in any way the resources available to the state department

1 for inspections, but rather to provide the state department with the  
2 greatest flexibility to concentrate its resources where they can be  
3 most effective. It is the intent of the Legislature to create a survey  
4 process that includes state-based survey components and that  
5 determines compliance with federal and California requirements  
6 for certified long-term health care facilities. It is the further intent  
7 of the Legislature to execute this inspection in the form of a single  
8 survey process, to the extent that this is possible and permitted  
9 under federal law. The inability of the state to conduct a single  
10 survey in no way exempts the state from the requirement under  
11 this section that state-based components be inspected in long-term  
12 health care facilities as required by law.

13 (b) (1) (A) Notwithstanding Section 1279 or any other  
14 provision of law, without providing notice of these inspections,  
15 the department, in addition to any inspections conducted pursuant  
16 to complaints filed pursuant to Section 1419, shall conduct  
17 inspections annually, except with regard to those facilities which  
18 have no class “AA,” class “A,” or class “B” violations in the past  
19 12 months. The state department shall also conduct inspections as  
20 may be necessary to ensure the health, safety, and security of  
21 patients in long-term health care facilities. Every facility shall be  
22 inspected at least once every two years. The department shall vary  
23 the cycle in which inspections of long-term health care facilities  
24 are conducted to reduce the predictability of the inspections.

25 (B) Inspections and investigations of long-term health care  
26 facilities that are certified by the Medicare Program or the Medicaid  
27 Program shall determine compliance with federal standards and  
28 California statutes and regulations to the extent that California  
29 statutes and regulations provide greater protection to residents, or  
30 are more precise than federal standards, as determined by the  
31 department. Notwithstanding any other provision of law, the  
32 department may, without taking regulatory action pursuant to *the*  
33 *rulemaking provisions of the Administrative Procedure Act*  
34 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
35 Division 3 of Title 2 of the Government Code), implement,  
36 interpret, or make specific this paragraph by means of an All  
37 Facilities Letter (AFL) or similar instruction. Prior to issuing an  
38 AFL or similar instruction, the department shall consult with  
39 interested parties and shall inform the appropriate committees of  
40 the Legislature. The department shall also post the AFL or similar

1 instruction on its Web site so that any person may observe which  
2 California laws and regulations provide greater protection to its  
3 residents or are more precise than federal standards. Nothing in  
4 this subdivision is intended to change existing statutory or  
5 regulatory requirements governing the care provided to long-term  
6 health care facility residents.

7 (C) In order to ensure maximum effectiveness of inspections  
8 conducted pursuant to this article, the department shall identify all  
9 state law standards for the staffing and operation of long-term  
10 health care facilities. Costs of the additional survey and inspection  
11 activities required by Chapter 895 of the Statutes of 2006 shall be  
12 included as Licensing and Certification Program activities for the  
13 purposes of calculating fees in accordance with Section 1266.

14 (2) The state department shall submit to the federal Department  
15 of Health and Human Services on or before July 1, 1985, for review  
16 and approval, a request to implement a three-year pilot program  
17 designed to lessen the predictability of the long-term health care  
18 facility inspection process. Two components of the pilot program  
19 shall be (A) the elimination of the present practice of entering into  
20 a one-year certification agreement, and (B) the conduct of  
21 segmented inspections of a sample of facilities with poor inspection  
22 records, as defined by the state department. At the conclusion of  
23 the pilot project, an analysis of both components shall be conducted  
24 by the state department to determine effectiveness in reducing  
25 inspection predictability and the respective cost benefits.  
26 Implementation of this pilot project is contingent upon federal  
27 approval.

28 (c) Except as otherwise provided in subdivision (b), the state  
29 department shall conduct unannounced direct patient care  
30 inspections at least annually to inspect physician and surgeon  
31 services, nursing services, pharmacy services, dietary services,  
32 and activity programs of all the long-term health care facilities.  
33 Facilities evidencing repeated serious problems in complying with  
34 this chapter or a history of poor performance, or both, shall be  
35 subject to periodic unannounced direct patient care inspections  
36 during the inspection year. The direct patient care inspections shall  
37 assist the state department in the prioritization of its efforts to  
38 correct facility deficiencies.

1 (d) All long-term health care facilities shall report to the state  
2 department any changes in the nursing home administrator or the  
3 director of nursing services within 10 calendar days of the changes.

4 (e) Within 90 days after the receipt of notice of a change in the  
5 nursing home administrator or the director of nursing services, the  
6 state department may conduct an abbreviated inspection of the  
7 long-term health care facilities.

8 (f) If a change in a nursing home administrator occurs and the  
9 Board of Nursing Home Administrators notifies the state  
10 department that the new administrator is on probation or has had  
11 his or her license suspended within the previous three years, the  
12 state department shall conduct an abbreviated survey of the  
13 long-term health care facility employing that administrator within  
14 90 days of notification.